

#### § 37.203

(c) If an OTRB equipped with an inaccessible restroom is making an express run of three hours or more without a rest stop, and a passenger with a disability who is unable to use the inaccessible restroom requests an unscheduled rest stop, the operator shall make a good faith effort to accommodate the request. The operator is not required to make the stop. However, if the operator does not make the stop, the operator shall explain to the passenger making the request the reason for its decision not to do so.

#### § 37.203 Lift maintenance.

(a) The entity shall establish a system of regular and frequent maintenance checks of lifts sufficient to determine if they are operative.

(b) The entity shall ensure that vehicle operators report to the entity, by the most immediate means available, any failure of a lift to operate in service.

(c) Except as provided in paragraph (d) of this section, when a lift is discovered to be inoperative, the entity shall take the vehicle out of service before the beginning of the vehicle's next trip and ensure that the lift is repaired before the vehicle returns to service.

(d) If there is no other vehicle available to take the place of an OTRB with an inoperable lift, such that taking the vehicle out of service before its next trip will reduce the transportation service the entity is able to provide, the entity may keep the vehicle in service with an inoperable lift for no more than five days from the day on which the lift is discovered to be inoperative.

#### § 37.205 Additional passengers who use wheelchairs.

If a number of wheelchair users exceeding the number of securement locations on the bus seek to travel on a trip, the operator shall assign the securement locations on a first come-first served basis. The operator shall offer boarding assistance and the opportunity to sit in a vehicle seat to passengers who are not assigned a securement location. If the passengers who are not assigned securement locations are unable or unwilling to accept this offer, the operator is not required

#### 49 CFR Subtitle A (10-1-98 Edition)

to provide transportation to them on the bus.

#### § 37.207 Discriminatory practices.

It shall be considered discrimination for any operator to—

(a) Deny transportation to passengers with disabilities, except as provided in § 37.5(h);

(b) Use or request the use of persons other than the operator's employees (e.g., family members or traveling companions of a passenger with a disability, medical or public safety personnel) for routine boarding or other assistance to passengers with disabilities, unless the passenger requests or consents to assistance from such persons;

(c) Require or request a passenger with a disability to reschedule his or her trip, or travel at a time other than the time the passenger has requested, in order to receive transportation as required by this subpart;

(d) Fail to provide reservation services to passengers with disabilities equivalent to those provided other passengers; or

(e) Fail or refuse to comply with any applicable provision of this part.

#### § 37.209 Training and other requirements.

OTRB operators shall comply with the requirements of §§ 37.161, 37.165-37.167, and 37.173. For purposes of § 37.173, "training to proficiency" is deemed to include, as appropriate to the duties of particular employees, training in proper operation and maintenance of accessibility features and equipment, boarding assistance, securement of mobility aids, sensitive and appropriate interaction with passengers with disabilities, handling and storage of mobility devices, and familiarity with the requirements of this subpart. OTRB operators shall provide refresher training to personnel as needed to maintain proficiency.

#### § 37.211 Effect of NHTSA and FHWA safety rules.

OTRB operators are not required to take any action under this subpart

that would violate an applicable National Highway Traffic Safety Administration or Federal Highway Administration safety rule.

**§37.213 Information collection requirements.**

(a) This paragraph (a) applies to demand-responsive operators under §37.189 and fixed-route operators under §37.193(a)(1) that are required to, and small mixed-service operators under §37.191 that choose to, provide accessible OTRB service on 48 hours' advance notice.

(1) When the operator receives a request for accessible bus service, the operator shall complete lines 1-8 of the Form A in Appendix A to this subpart. The operator shall immediately provide a copy of the form to the passenger.

(2) On the scheduled date of the trip, the operator shall complete lines 9-11 of the form. In any case in which the requested accessible bus was not provided, the operator shall immediately provide a copy of the form to the passenger.

(3) The operator shall retain its copy of the completed form for five years. The operator shall make these forms available to Department of Transportation or Department of Justice officials at their request.

(4) Beginning October 29, 2001 for large operators, and October 28, 2002 for small operators, and on that date in each year thereafter, each operator shall submit a summary of its forms to the Department of Transportation. The summary shall state the number of requests for accessible bus service, the number of times these requests were met, and the number of times compensation was paid. It shall also include the name, address, telephone number, and contact person name for the operator.

(b) This paragraph (b) applies to small fixed-route operators who choose to provide equivalent service to passengers with disabilities under §37.183(b)(2).

(1) The operator shall complete Form B in Appendix A to this subpart on every occasion on which a passenger with a disability needs equivalent serv-

ice in order to be provided transportation.

(2) The operator shall provide one copy of the form to the passenger and retain another copy of the completed form for five years. The operator shall make these forms available to Department of Transportation or Department of Justice officials at their request.

(3) Beginning October 28, 2002, and on that date in each year thereafter, each operator shall submit a summary of its forms to the Department of Transportation. The summary shall state the number of situations in which equivalent service was needed, the number of times such service was provided, and the number of times compensation was paid. It shall also include the name, address, telephone number, and contact person name for the operator.

(c) Beginning October 30, 2000 for large operators, and October 29, 2001 for small operators, and on that date in each year thereafter, each fixed-route operator shall submit to the Department a report on how many passengers with disabilities used the lift to board accessible buses. For fixed-route operators, the report shall reflect separately the data pertaining to 48-hour advance reservation service and other service.

(d) Each operator shall submit to the Department, October 28, 1999 and each year thereafter on that date, a summary report listing the number of new buses and used buses it has purchased or leased during the preceding year, and how many of the buses in each category are accessible. It shall also include the total number of buses in the operator's fleet and the name, address, telephone number, and contact person name for the operator.

(e) The information required to be submitted to the Department shall be sent to the following address: Bureau of Transportation Statistics, 400 7th Street, SW., Washington, DC 20590.

**§37.215 Review of requirements.**

(a) Beginning October 28, 2005, the Department will review the requirements of §37.189 and their implementation. The Department will complete this review by October 30, 2006.

(1) As part of this review, the Department will consider factors including,